

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHRISTOPHER WHITE,	:	Civil No. 1:22-CV-01173
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
TUCKER FREY, <i>et al.</i> ,	:	
	:	
Defendants.	:	Judge Jennifer P. Wilson

ORDER

AND NOW, on this 25th day of July, 2023, for the reasons stated in the accompanying memorandum, **IT IS ORDERED AS FOLLOWS**:

1. Defendants' motion to dismiss the complaint for failure to state a claim, Doc. 20, is **GRANTED** in part and **DENIED** in part.
2. The Eighth Amendment claim is **DISMISSED** with prejudice.
3. The deliberate indifference to a serious medical need claims against Defendants Murphy and Fox are **DISMISSED** without prejudice.
4. The excessive force claim against Defendants Frey and Thomas is not dismissed.
5. The excessive force claim against Defendant Gehr is **DISMISSED** without prejudice.
6. The claims against Lycoming County are **DISMISSED** without prejudice.
7. The First Amendment retaliation claim against Defendant Frey is not dismissed.

8. All other First Amendment claims are **DISMISSED** without prejudice.
9. All Fourth Amendment claims are **DISMISSED** without prejudice.
10. All Sixth Amendment claims are **DISMISSED** without prejudice.
11. All claims under the Pennsylvania Constitution are **DISMISSED** without prejudice.
12. Defendants' request to strike Plaintiff's prayer for punitive damages is **DENIED**.
13. Petitioner is granted leave to file an amended complaint. He shall file an amended complaint within **thirty (30) days** of the date of this order.¹
14. The Clerk of the Court will forward Petitioner two (2) copies of the court's civil complaint form for his use in drafting the amended complaint.

s/Jennifer P. Wilson
JENNIFER P. WILSON
United States District Judge
Middle District of Pennsylvania

¹ If Plaintiff does not wish to amend the complaint, he may file a notice stating that he intends to stand on the complaint. If Plaintiff files such notice, the court will proceed on the remaining claims. *See Weber v. McGrogan*, 939 F.3d 232, 241 (3d Cir. 2019).